

**RESOLUTION NO. 74392**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN  
JOSÉ SUMMARILY VACATING PUBLIC RIGHT-OF-WAY  
AND A PUBLIC SERVICE EASEMENT AT THIRD STREET  
AND SAN FERNANDO STREET**

**WHEREAS**, subdivision (a) of Section 8334 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate an excess right-of-way of a street not required for street purposes; and

**WHEREAS**, subdivision (b) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate the public service easement associated with the right-of-way if the date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date; and

**WHEREAS**, the City Council intends to summarily vacate a portion of public right-of-way at the southwest corner of Third Street and San Fernando Street (hereinafter "Right-of-Way"), and a public service easement at the same location (hereinafter "Easement") constituting all that real property situated in the City of San José, County of Santa Clara, State of California, more particularly described as:

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, being a portion of East San Fernando Street and a portion of South Third Street, as shown on Map of Tract No. 9796, filed November 28, 2006 in Book 809 of Maps at Pages 16 and 17, Records of Santa Clara County, more particularly described as follows:

Beginning at a point on the easterly line of East San Fernando Street, being 90.00 feet in width, said point being also at the southwesterly terminus of the curve, having a radius of 20.00 feet, as shown on said map of Tract No. 9796:

Thence along said easterly line of East San Fernando Street, North 60°07'01" East, a distance of 19.99 feet to the intersection with the westerly prolongation of the southerly line of South Third Street, being 80.00 feet in width:

Thence along said prolongation line of South Third Street, South 29°55'22" East, a distance of 19.99 feet to the beginning of a being non-tangent curve, concave to the south, having a radius of 20.00 feet, from which a radial line bears South 60°04'38" West;

Thence southwesterly, along said curve, through a central angle of 89°57'37" for an arc length of 31.40 feet to the Point of Beginning.

Containing an area of 86 square feet, more or less.

**WHEREAS**, on May 30, 2008, the Director of the Department of Public Works approved that certain map entitled "Plat Map Showing That Portion of Right-of-Way at Third Street and San Fernando Street To Be Vacated" showing the portion of public Right-of-Way and Easement that the City Council intends to summarily vacate (hereinafter "Map"); and

**WHEREAS**, attached to this Resolution as Exhibit "A" is a copy of the report, dated May 12, 2008, that the Director of the Department of Public Works submitted to the City Council setting forth the reasons justifying the summary vacation of the Right-of-Way and Easement (hereinafter "Report").

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ THAT:

**SECTION 1.** The City Council hereby adopts the Report and, based upon the Report and all other evidence submitted, makes the following findings:

1. The Right-of-Way is excess right-of-way of a street not required for street purposes.
2. The date of dedication or acquisition of the Easement is less than five years, and more than one year, immediately preceding the proposed vacation, and the Easement was not used continuously since that date; and
2. No public facilities are located within the Right-of-Way and Easement that would be affected by a summary vacation; and
3. The Right-of-Way is not needed for present or prospective street purposes; and
4. The public convenience and necessity does not require reservation of any portion of the Right-of-Way and Easement.

**SECTION 2.** Based upon the findings made in Section 1 of this Resolution and the provisions of Sections 8333 and 8334 of the Streets and Highways Code, the City Council does hereby order that the Right-of-Way and Easement shall be and hereby are summarily vacated.

**SECTION 3.** The City Clerk is hereby direct to record at Santa Clara County Records this Resolution, including Exhibit "A" hereto, and the Map.

**SECTION 4.** The Right-of-Way will no longer constitute a public right-of-way and the Easement will no longer constitute a public easement from and after the date of recordation of the documents identified in Section 3 of this Resolution.

ADOPTED this 3RD day of JUNE, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,  
LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS;  
REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk